

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DARRELL D. FOLEY,

Plaintiff,

v.

TOM BATES, et al.,

Defendants.

No. C 06-7294 PJH

**ORDER OF DISMISSAL**

Pro se plaintiff Darrell D. Foley filed this action on November 27, 2006, alleging eight causes of action: (1) intentional infliction of emotional distress; (2) negligent infliction of emotional distress; (3) violation(s) of 42 U.S.C. § 1983; (4) abuse of process; (5) violation(s) of the Fourteenth Amendment; (6) violation(s) of the Fourth Amendment; (7) violation(s) of the First Amendment; and (8) violation(s) of the Fifth Amendment. He also requested leave to proceed in forma pauperis ("IFP"). On March 30, 2007, the court dismissed the complaint pursuant to 28 U.S.C. § 1915(e), and denied the IFP request.

The dismissal was with leave to amend. The order advised plaintiff that if he failed to file an amended complaint by April 30, 2007, the court would dismiss the case. The court having considered the five factors set forth in *Malone v. United States Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987), and having determined that notwithstanding the public policy favoring the disposition of actions on their merits, the court's need to manage its docket and the public interest in the expeditious resolution of the litigation require dismissal of this action. In view of plaintiff's lack of response to this court's prior order, the court finds there is no appropriate less drastic sanction. Accordingly, this action is dismissed with

1 prejudice.

2 IT IS SO ORDERED.

3 Dated: May 7, 2007



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PHYLLIS J. HAMILTON  
United States District Judge

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